

**REMARKS**

1. The Applicant expresses his appreciation to the Examiner for the diligence shown in the examination of this application.
2. Reconsideration of the application as amended is respectfully requested.
3. A new drawing (FIG. 7) correcting non-formalities will be filed after allowance.
4. Claims 8 and 9 were rejected under 35 U.S.C. Section 112 . Specifically, the bottom diameter limitations of the claims were unclear with respect to the bottom opening limitations of claims 1 and 2. Claims 8 and 9 were canceled to overcome the indefiniteness noted by the Examiner.
5. Claims 1-20 were rejected under 35 U.S.C. section 103(a) as being unpatentable over Kath et al. U.S. Patent 5,945,070. Kath et al. discloses a reaction vessel filter for combinatorial chemistry or biological use. A filter tube for a vessel maintains the vessel under an inert gas atmosphere and maintains the integrity of the inert gas seal during filling and draining operations.
6. In regards to the rejections of independent claims 1 and 13, the Applicant takes exception to the Examiner's assertion that Kath et al. disclose an "opening below filter 6" in paragraph 2 of the Office Action. Neither the figures nor the disclosure of Kath et al. disclose such a hole in the bottom of vessel 1. In fact, Kath et al. discloses only a solid bottom of vessel 1 below the frit (6) by stating "the sipper tube (3) is placed inside the vessel with the fritted end extending down to the inside bottom of the vessel (1)" (Col. 4, lines 1-2). Also, the vessel fluid holding and aspiration (by injecting an inert gas) functions of the Kath et al. device as delineated in Col 4, lines 46-63 would not be possible if a hole existed in the bottom of the vessel.

7. The lack of this key element (drip tube with opening on the bottom of the device) of the invention not only makes the Applicant's invention as claimed novel over Kath et al., but the features provided by the drip tube allow the device to be used to deposit or aspirate sample fluids to another vessel without withdrawing the transfer probe (14) of Kath et al. These features provide surprising new results and therefore make the invention unobvious over the disclosure of Kath et al.

8. In regards to independent claim 19, the Applicant submits that the method of filling or aspirating a septum sealed vessel of Kath et al. does not disclose, nor suggest, a sample processing device having "a drip tube disposed between said bottom opening and said reduced diameter chamber", nor does he disclose "physically positioning said sample processing device to another sample processing location by movement of said penetrating sample deposit/extraction element". These features neither disclosed nor suggested by Kath et al., or any of the references of record, allows automated positioning of the device by a needle, a surprising and unobvious method over Kath et al.

### **References Take Different Approaches**

9. The Kath et al. device is a septum-sealed vessel in which fluid is added or aspirated under an inert gas atmosphere. The instant invention as claimed is a sample processing device which allows collection or depositing of a sample fluid to another vessel, the transport of the device made by use of the needle. The radically different approach to the problem solved by the instant invention mitigates to the unobviousness over the Kath et al. device.

### **The Cited But Non-Applied References**

10. These subsidiary references have been noted and reviewed, but are submitted to be less relevant than the relied upon references.

**The Dependent Claims Are A-fortiori Patentable**

11. The dependent claims add additional novel features and thus are submitted to be, a-fortiori, patentable.

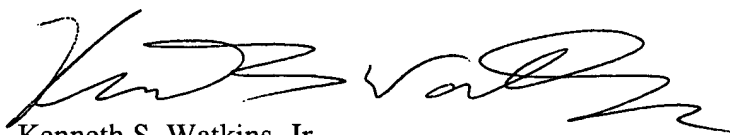
**Allowance Requested**

12. For the above reasons, the Applicant's Agent submits that the Sample Collection and Processing Device disclosed and claimed in the present application is not taught by any of the references of record, taken either alone, or in combination. Therefore, allowance of the present application is in order and respectfully requested.

**Request For Constructive Assistance**

The undersigned has made a diligent effort to amend the claims of this application so that they define novel structure and render the claimed structure unobvious because it produces new and unexpected results. If for any reason the claims of this application are not believed to be in full condition for allowance, applicant respectfully requests the constructive assistance and suggestions of the Examiner pursuant to MEP 707.07(j) and MEP 706.03 (d) in order that this application can be placed in allowable condition as soon as possible and without the need for further proceedings.

Very Respectfully,



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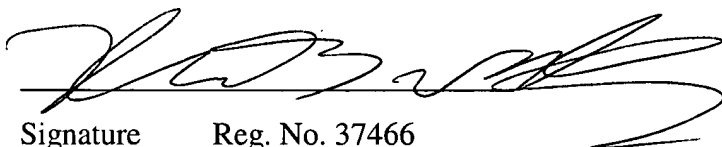
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